Dan Kikinis
                                                      Appl. No. 10/656,443
                                                      Atty. Docket: 2222.2340002

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-13 are pending in the application, with claims 1, 5, 8, 11, 12, and 13 being the independent claims. Claims 1-13 are sought to be amended. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Specification

The Office Action at paragraph 2 encouraged Applicant:

> [to] use this period for response to thoroughly and very closely proof read and review the whole of the application for correct correlation between reference numerals in the textual portion of the Specification and Drawings (i.e., *there is a figure 3 but no mention in the textual portion of the specification, there is an element 28 in figure 1 with no reference in the textual portion of the specification, exc...)* along with any minor spelling errors, general typographical errors, accuracy, assurance of proper use for Trademarks ™, and other legal symbols ®, where required, and clarity of meaning in the Specification, Drawings, and specifically the claims (i.e., provide proper antecedent basis for "the" and "said" within each claim). Minor typographical errors could render a Patent unenforceable and so the applicant is strongly encouraged to aid in this endeavor.

Regarding figure 3, Applicant has canceled this figure without prejudice or disclaimer thereto in the manner prescribed by 37 C.F.R. § 1.121(d) and M.P.E.P. § 608.02(t).

Regarding element 28 in figure 1, Applicant has amended figure 1 to remove element

28 as required by 37 C.F.R. § 1.84(p)(5) and M.P.E.P. § 608.02(e).

Additionally, Applicant has amended the specification to correct general

typographical errors.

Drawings

Applicant has amended figure 1 to remove element 28 as required by 37 C.F.R. §

1.84(p)(5) and M.P.E.P. § 608.02(e).

Applicant has canceled figure 3 without prejudice or disclaimer thereto in the manner

prescribed by 37 C.F.R. § 1.121(d) and M.P.E.P. § 608.02(t).

Objection Under 37 C.F.R. § 1.75(d)(1) and M.P.E.P. § 608.01(o)

The Office Action at paragraph 3 objected to the specification:

> as failing to provide proper antecedent basis for the claimed subject matter.
> See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is
> required to the claimed "packet switched network". The only reference to a
> "packet switched network" is to that in paragraph [0005] (page 2 (line 6) of the
> specification as originally filed).

Applicant respectfully traverses this objection. The specification at page 1, line 20

through page 2, line 28 recites (emphasis added):

> In recent years the information and data network known commonly as
> the Internet, together with advances in computer hardware and software, has
> led to a new multi-media telephone system known in the art by several names.
> In this relatively new systemology, telephone calls are simulated by multi-
> media computer equipment, and ***data, such as audio and or video data, is***

transmitted over data networks as data packets. In this application the broad term used to describe such computer-simulated telephony is Data Network Telephony (DNT).

For purposes of nomenclature and definition, the inventors wish to distinguish clearly between what might be called conventional telephony, which is the telephone service enjoyed by nearly all citizens through local telephone companies and several long-distance telephone network providers, and what has been described herein as computer-simulated telephony or data-network telephony (DNT). The conventional system is familiar to nearly all, and is the system most people have installed in their homes, through which they typically communicate with the outside world. In this system calls are made by dedicated connection, and are switched by dedicated connections.

The computer-simulated, or DNT systems, are familiar to those who use and understand computer systems. Perhaps the best example of DNT is telephone service provided over the Internet, which will be referred to herein as Internet Protocol Network Telephony (IPNT), by far the most extensive, but still a subset of DNT. *DNT is a term used to describe basically any type of packet switched network whether public or private.* Examples of DNT networks include the public Internet, Intranets, private company owned wide area networks (WANs), and so on. These DNT networks may operate using several differing or combined protocol, but generally are supportive of DNT.

Both systems use signals transmitted over network links. In fact, connection to data networks for DNT such as IPNT is typically accomplished over local telephone lines, used to reach such as an Internet Service Provider (ISP). The definitive difference is that COST telephony may be considered to be connection-oriented as previously described. In the COST system, calls are placed and connected by a specific dedicated path, and the connection path is maintained over the time of the call. Bandwidth is thus assured. Other calls and data do not share a connected channel path in a COST system. A DNT system, on the other hand, is not connection oriented or dedicated in terms of bandwidth. That is, *data, including audio data, is prepared, sent, and received as data packets. The data packets share network links, and may travel by varied and variable paths.*

Recent improvements to available technologies associated with the transmission and reception of data packets during real-time DNT communication have enabled companies to successfully add DNT, principally IPNT capabilities, to existing CTI call centers and home-site locations. Such improvements, as described herein and known to the inventor, include methods for guaranteeing available bandwidth or quality of service (QoS) for a transaction, improved mechanisms for organizing, coding, compressing, and carrying data more efficiently using less bandwidth, and methods and apparatus for intelligently replacing lost data via using voice supplementation methods and enhanced buffering capabilities.

Furthermore, the specification at page 6, line 29 through page 7, line 4 recites (emphasis added):

> FIG. 1 is an overview of system topology according to an embodiment of the present invention. A unique service-system 9 is provided as a dial-up technical-service network adapted to setting-up and configuring various Internet appliances purchased by persons, hereinafter generally termed users, from appliance vendors. Such Internet appliances include any device that is used for accessing and operating on *the Internet, or other types of switch-packet networks that may stand alone or be linked to the Internet.*

According, the phrase "packet switched network" has clear support and antecedent basis in the description so that the meaning of this phrase in the claims is ascertainable by reference to the description. Therefore, Applicant respectfully requests that the Examiner reconsider and remove his objection to the specification with respect to 37 C.F.R. § 1.75(d)(1) and M.P.E.P. § 608.01(o).

Objection Under 35 U.S.C. § 132(a) and M.P.E.P. §§ 608.04 and 706.03(o)

The Office Action at paragraph 4 objected to the amendment filed 10 January 2006:

> because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is the claimed "packet switched network".

Applicant respectfully traverses this objection. As explained above, use of the phrase "packet switched network" in the amendment filed 10 January 2006 does not introduce new matter into the disclosure of the invention. Therefore, Applicant respectfully requests that the Examiner reconsider and remove his objection to the amendment filed 10 January 2006 with respect to 35 U.S.C. § 132(a) and M.P.E.P. §§ 608.04 and 706.03(o).

Objections Under 35 U.S.C. § 112

The Office Action at paragraphs 6 and 7 objected to the specification under the first

paragraph of 35 U.S.C. § 112:

> as failing to adequately teach how to make and/or use the invention, i.e. failing
> to provide an enabling disclosure . . . . [and failing] to provide any written
> description nor any enablement for the newly claimed "packet switched
> network" as now recited in the claims; and thus the specification is twice
> objected, one for failing to provide a written description and one for failing to
> provide an enablement. While the specification did originally detail two
> networks, a specific network and a general network, such were shown as in
> figure 1 with each being a connection-oriented switched telephony network
> via the PSTN over 17. The Internet Appliance, per figure 1, had only one
> connection (via 17) for the specific network and the general network but not
> an additional connection to a packet switched network. Element 17 is a COST
> not a LAN.

Applicant respectfully traverses these objections. As explained above, the phrase

"packet switched network" includes, but is not limited to, the Internet, which is shown as

element 27 at figure 1 of the present patent application. Additionally, the specification at

page 7, lines 16-21 recites (emphasis added):

> A user wishing to set-up and configure an Internet appliance 15, in this
> case a WEB phone for example, may activate a setup procedure in device 15
> (not shown), which will then dial up server 21 to obtain automatic set-up and
> configuration for successful operation with the Internet represented in Fig. 1
> by element number 27. *It should not be assumed that Internet access is*
> *provided for the appliance through dial-up server 21, although this may be*
> *the case in some more limited embodiments of the invention.*

Accordingly, the specification contains a written description of the invention and of the

manner and process of making and using it in full, clear, concise, and exact terms that enable

any person skilled in the art to which it pertains to make and use the invention. Therefore,

Applicant respectfully requests that the Examiner reconsider and remove his objections to the specification under the first paragraph of 35 U.S.C. § 112.

Rejections Under 35 U.S.C. § 112

The Office Action at paragraphs 8 and 9 rejected claims 1-13 under the first paragraph of 35 U.S.C. § 112 "as failing to provide a written description . . . . [and] as failing to provide an enablement." Applicant respectfully traverses these rejections. As explained above, the specification contains a written description of the invention and of the manner and process of making and using it in full, clear, concise, and exact terms that enable any person skilled in the art to which it pertains to make and use the invention. Therefore, Applicant respectfully requests that the Examiner reconsider and remove his rejections of claims 1-13 under the first paragraph of 35 U.S.C. § 112.

Rejections Under 35 U.S.C. § 102

The Office Action at paragraphs 11, 14, and 15 rejected claims 1-13 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,370,141 to Giordano, III *et al.* (hereinafter "Giordano"). Applicant respectfully traverses these rejections.

Regarding amended independent claim 1, it recites (emphasis added):

A system for configuring a first packet switched network appliance, comprising:
    a server configured to store first data, to receive second data from the first packet switched network appliance via a first network, and to convey

third data to the first packet switched network appliance via said first network; and

a control routine configured to execute on said server and to use said first data and said second data to produce said third data, *wherein said control routine is configured to use said second data to distinguish the first packet switched network appliance from a second packet switched network appliance* and said third data is used to configure the first packet switched network appliance to have access to a second network, wherein said second network is a packet switched network.

Each of independent claims 5, 8, and 11-13 has been amended in a similar manner.

Support for these amendments is found in the specification, *inter alia*, at page 7, line 28

through page 8, line 27 (emphasis added):

Server 21 and its counterpart set-up procedure in device 15 are at the heart of the present invention, and are provided and adapted to Interact with a user's appliance, and in some cases with the user, as previously described (ID, credit, etc.). Server 21 may be part of an on-site operation center dedicated to facilitating service-system 9. Dial-up connection to server 21 is provided through a conventional modem bank 23, which is connected to SCP 13 via telephony trunk 19. Modem bank 23 has an many connections (modems) as are required to facilitate many calls from users having different appliances to be configured. Moreover, the system illustrated may be repeated in many different locations and forms to accommodate large numbers of appliances, and so forth.

In a preferred embodiment a 1-800 telephone number (or other no-charge, or in some cases charged numbers) is provided to users who buy a specific participating vendor's Internet appliance or are preprogrammed in the set-up procedure in device 15. *The special number can be used to identify, that is, it can be specific to, the vendor and model of the appliance.* A user would then plug in his appliance, such as appliance 15, and dial the number. The call arrives at SCP 13 located in PSTN 11 over a telephone line 17 and is immediately transferred via trunk 19 to a modem in modem bank 23 of server 21.

As previously described above, server 21 is uniquely adapted to interacting with callers (users) having Internet appliances that they wish to set-up and configure. To this end, server 21 has software 29 comprising various applications or set-up routines that are created for specific Internet appliances such as appliance 15. *Interfacing software (not shown) in server 21 interacts with incoming calls and determines which set-up application 29 to implement based on number recognition via destination number identification service (DNIS) and automatic number identification (ANI). The modem bank and software may be adapted to respond to respond to a*

large number of telephone numbers cross-referenced with a large variety of appliances. By accessing the DNIS the system knows the number called, and uses this number in a preferred embodiment in conjunction with a data repository 25 to select correct set-up routines (procedures) to properly deal with the specific appliance associated with the call.

Giordano does not disclose, teach, or suggest distinguishing a first packet switched network appliance from a second packet switched network appliance. Consequently, none of claims 1, 5, 8, 11, 12, or 13 is anticipated by Giordano. Because claims 2-4, 6, 7, 9, and 10 depend upon claims 1, 5, or 8 and because of the distinctive features of claims 2-4, 6, 7, 9, and 10, these claims are also not anticipated by Giordano. Therefore, Applicant respectfully requests that the Examiner reconsider and remove his rejections of claims 1-13 under 35 U.S.C. § 102(e).
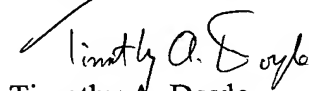
Conclusion

All of the stated grounds of objection and rejection have been properly traversed or accommodated. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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Date: _29 SEP 06_

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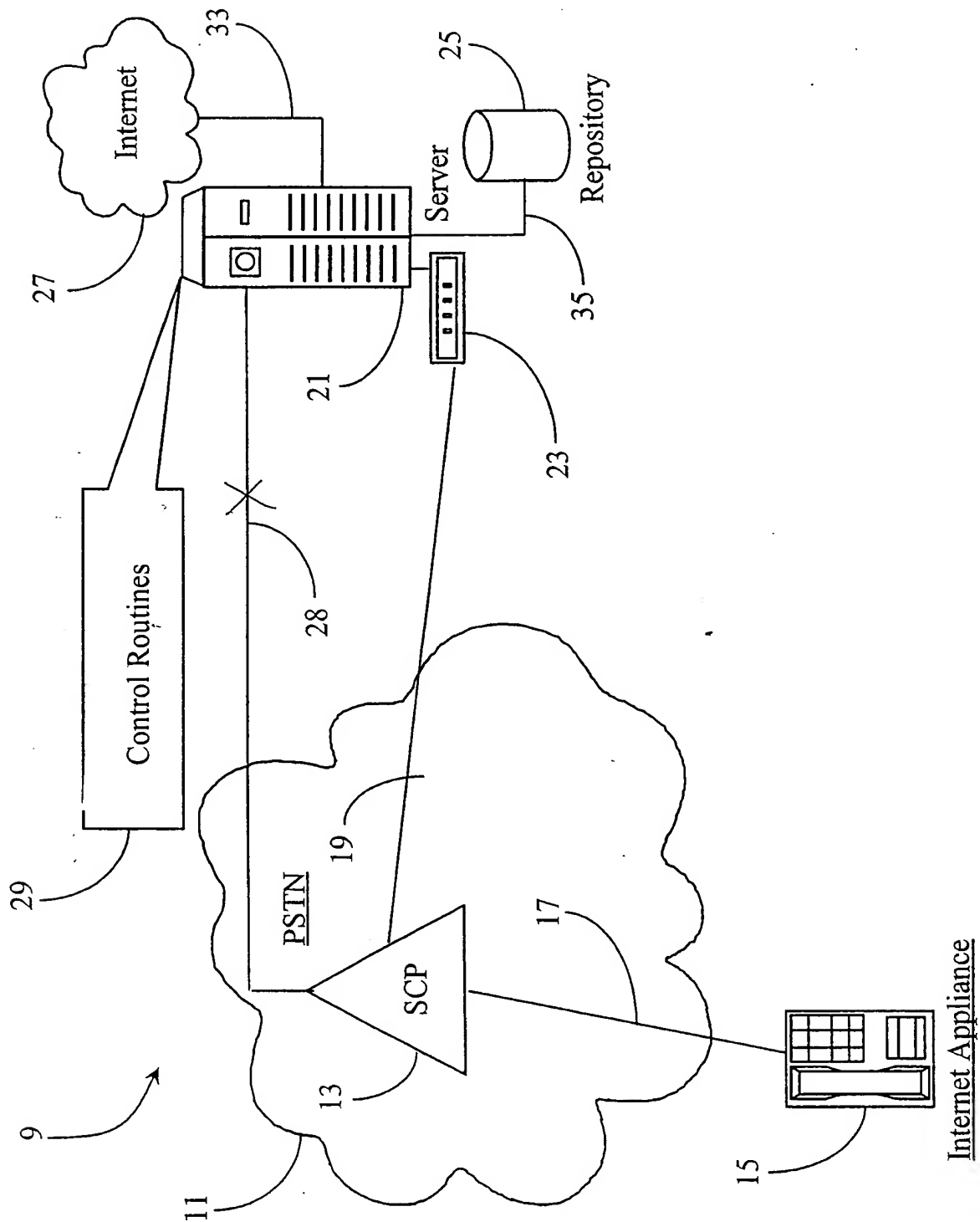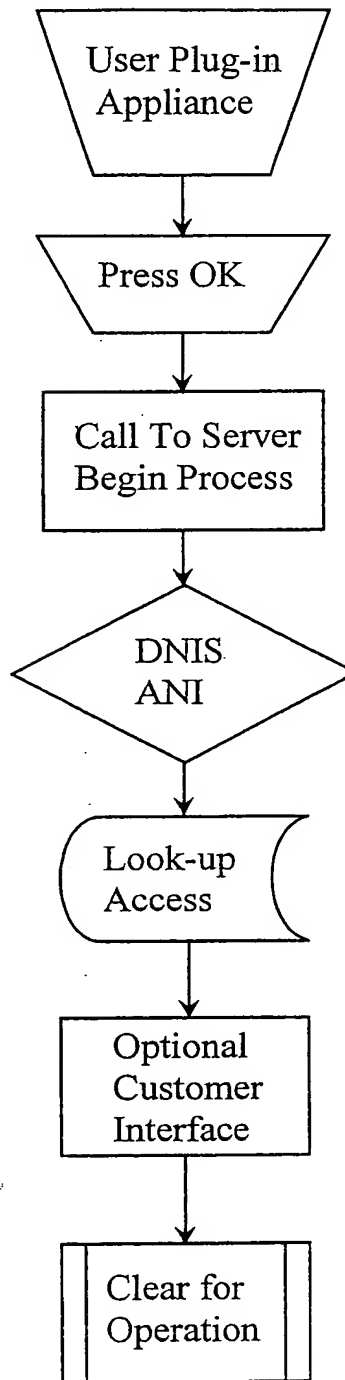Washington, D.C. 20005-3934
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Fig. 1

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        ┌──────────────────┐
         \  User Plug-in  /
          \  Appliance   /
           ──────────────
                 │
                 ▼
         ┌──────────────┐
          \  Press OK  /
           ────────────
                 │
                 ▼
        ┌──────────────────┐
        │  Call To Server  │
        │  Begin Process   │
        └──────────────────┘
                 │
                 ▼
            ◇──────────◇
           ╱    DNIS    ╲
           ╲    ANI     ╱
            ◇──────────◇
                 │
                 ▼
        ⎰──────────────────⎱
        │  Look-up         │
        │  Access          │
        ⎱──────────────────⎰
                 │
                 ▼
        ┌──────────────────┐
        │  Optional        │
        │  Customer        │
        │  Interface       │
        └──────────────────┘
                 │
                 ▼
        ┌┬──────────────┬┐
        ││  Clear for   ││
        ││  Operation   ││
        └┴──────────────┴┘
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CANCELED

Fig. 3